Data Center Task Force Meeting

September 22, 2026

Meeting Overview

- Introductions
- Overview of Task Force Goals
- Presentations followed by Roundtable Discussions
- Scheduling and Next Steps
- Public Comment Period
- Adjourn

Introductions

Task Force Goals – Executive Order No. 26-17

Section 4. Creation of a Data Center Task Force through the Department of Water, Environment, and Energy.

Direct the Department of Water, Environment, and Energy to establish a Data Center Task Force to analyze the impact that Data Centers will have on Nebraska's water and environment. Review existing state law and provide recommendations to the Legislature in 2027 to:

(1) ensure that future Data Center projects will not degrade our natural resources; and

(2) provide recommendations for common sense county zoning guidelines.

Questions for Consideration

1. What have we learned from past data center developments and what can we do better in the future?
2. What should our communities and counties consider when approached by new data center developments?
3. Are current protections sufficient for Nebraska water and energy ratepayers?
4. How should long-term infrastructure and decommissioning costs be addressed?
5. Does Nebraska currently have the necessary state policies in place to ensure data centers are built responsibly?
6. What additional outcomes would you like to see from these Task Force discussion?

Presentations Overview

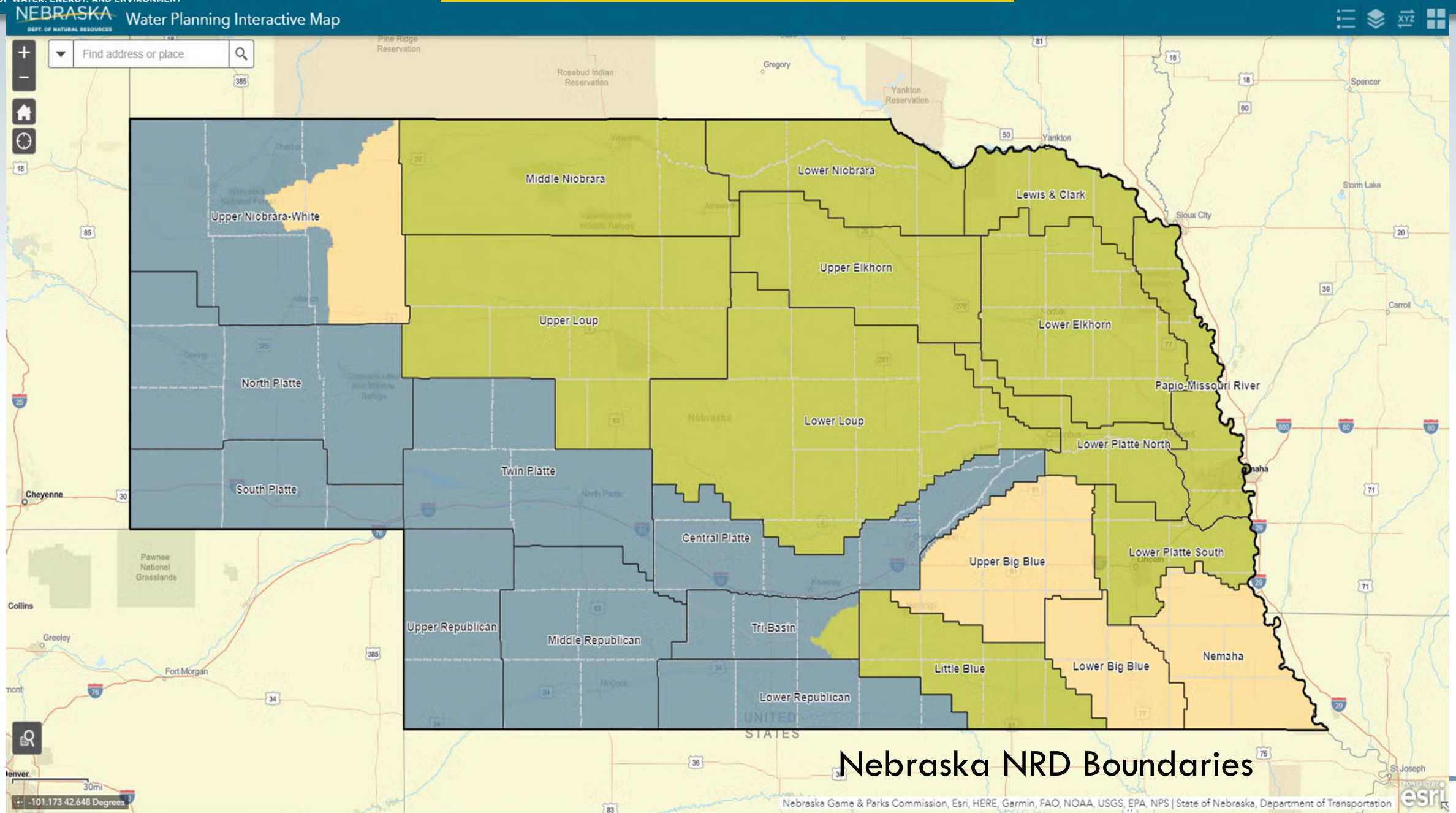
- Water and Environmental Permitting Considerations
  - State Agency Perspective: Jesse Bradley, DWEE Director
  - NRD Perspective: Dave Eigenberg, UBBNRD General Manager
- Energy Considerations
  - Nicole Sedlacek, NPPD Economic Development Manager
- Planning and Zoning Considerations
  - Candace Meredith, NACO Deputy Director

A roundtable discussion will follow each topic

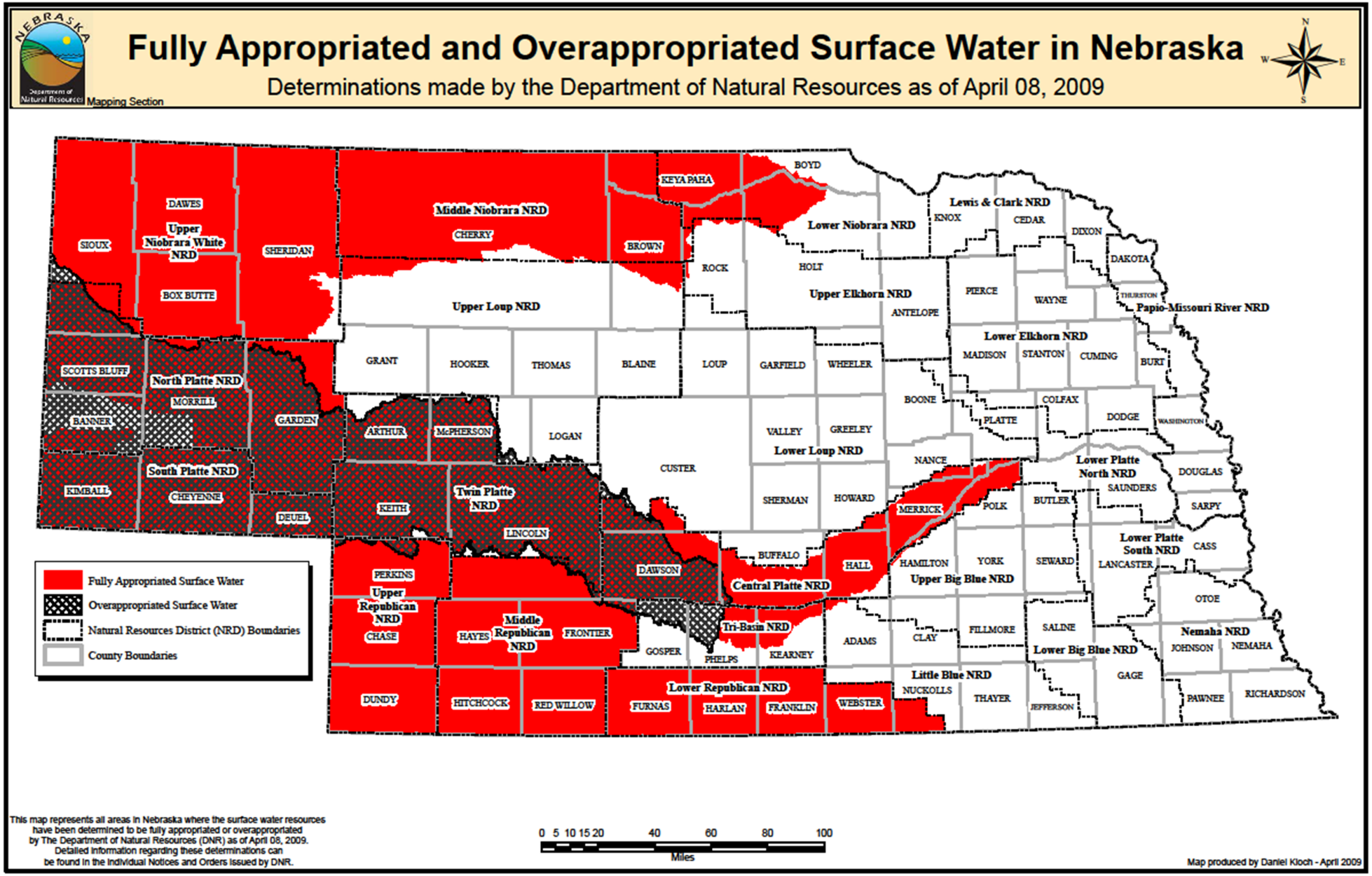
Water Management in Nebraska

- Water management in Nebraska is carried out through a combination of state and local authority.
- The Department of Water, Energy, and Environment (DWEE) has primary responsibility for administering **surface water** appropriations and overseeing **statewide water planning efforts**.
- Nebraska's 23 local natural resources districts (NRDs) have primary responsibility for local **groundwater management** and regulation.

Data Centers: Water Considerations



Nebraska NRD Boundaries


Fully Appropriated and Overappropriated Surface Water in Nebraska
Determinations made by the Department of Natural Resources as of April 08, 2009
Mapping Section
N
W
E
S
Fully Appropriated Surface Water
Overappropriated Surface Water
Natural Resources District (NRD) Boundaries
County Boundaries
Middle Niobrara NRD
Lower Niobrara NRD
Lewis & Clark NRD
Upper Niobrara White NRD
Upper Loup NRD
Upper Elkhorn NRD
Papio-Missouri River NRD
Lower Elkhorn NRD
North Platte NRD
Lower Loup NRD
Lower Platte North NRD
South Platte NRD
Twin Platte NRD
Lower Platte South NRD
Central Platte NRD
Upper Big Blue NRD
Upper Republican NRD
Middle Republican NRD
Tri-Basin NRD
Nemaha NRD
Lower Big Blue NRD
Little Blue NRD
Lower Republican NRD
DAWES
SIOUX
SHERIDAN
CHERRY
KEYA PAHA
BOYD
BROWN
ROCK
HOLT
KNOX
CEDAR
DIXON
DAKOTA
BOX BUTTE
ANTELOPE
PIERCE
WAYNE
THURSTON
GRANT
HOOKER
THOMAS
BLAINE
LOUP
GARFIELD
WHEELER
MADISON
STANTON
CUMING
BURT
SCOTTS BLUFF
MORRILL
BANNER
GARDEN
ARTHUR
McPHERSON
LOGAN
VALLEY
GREELEY
BOONE
COLFAX
PLATTE
DODGE
WASHINGTON
CUSTER
NANCE
KIMBALL
CHEYENNE
DEUEL
KEITH
LINCOLN
SHERMAN
HOWARD
MERRICK
POLK
BUTLER
SAUNDERS
DOUGLAS
SARPY
PERKINS
DAWSON
BUFFALO
HALL
HAMILTON
YORK
SEWARD
LANCASTER
CASS
OTOE
CHASE
HAYES
FRONTIER
GOSPER
PHELPS
KEARNEY
ADAMS
CLAY
FILLMORE
SALINE
JOHNSON
NEMAHA
DUNDY
HITCHCOCK
RED WILLOW
FURNAS
HARLAN
FRANKLIN
WEBSTER
NUCKOLLS
THAYER
JEFFERSON
GAGE
PAWNEE
RICHARDSON
This map represents all areas in Nebraska where the surface water resources have been determined to be fully appropriated or overappropriated by The Department of Natural Resources (DNR) as of April 08, 2009. Detailed information regarding these determinations can be found in the individual Notices and Orders issued by DNR.
0 5 10 15 20 40 60 80 100
Miles
Map produced by Daniel Kloch - April 2009

Water Permitting

- Surface water permits issued only if water is unappropriated (available). New user holds junior status relative to other users.
- State also issues permits to some municipalities for direct withdrawal or to transfer water from wellfield to place of use.
- Most NRDs have existing **"large water user" requirements** within their specific rules and regulations that were put in place before data center development became prevalent in Nebraska in response to other municipal and industrial users that use significant amounts of water.
  - More to come during NRD presentation

What water sources are data centers utilizing?

- Most data centers in Nebraska currently obtain water through a local public water utility
  - The source of the utility's water supply may come from groundwater, surface water, or a combination of both

Air Quality Permitting

- A data center may need an air quality construction permit before construction begins if its potential to emit (PTE) exceeds the thresholds established in Title 129 Neb. Admin. Code Ch. 3, § 001.03 (*Nebraska Air Quality Regulations*).
- Facilities at or above major-source thresholds generally require a Class I (Title V) permit, while lower-emitting facilities may be permitted under Nebraska's Class II program.
- Four data centers currently hold Class I permits in Nebraska

Pollutant	Construction Permit Trigger (tons per year)
PM_{10}	15 tpy
$PM_{2.5}$	10 tpy
SO_2/SO_3	40 tpy
NO_x	40 tpy
VOC	40 tpy
CO	100 tpy
Lead	0.6 tpy
Single HAP	2.5 tpy
Combined HAPs	10 tpy

Air Quality Permitting

- For data centers, the principal emission sources are typically diesel emergency generators, with additional emissions from:
  - Boilers/heaters, cooling towers, fire pumps, fuel storage, and other combustion equipment.
- Nitrogen oxides (NO_x) are the primary emissions from diesel generators, which may trigger construction permitting, air dispersion modeling, and major-source applicability.

Air Quality Permitting

- Data-center pollutant emissions are typically controlled indirectly through enforceable limits on emergency generators and their operation, such as:
  - Annual fuel-use limits
  - Generator operating-hour limits
  - Engine emission standards
  - Fuel specifications
  - Operating restrictions

NPDES Permits

- National Pollutant Discharge Elimination System (NPDES) permits may be required by data centers for direct discharges of cooling water and stormwater during land clearing and construction.
- Most data centers opt for indirect discharge of cooling water to the local sanitary sewer if capacity is available.
- Only one data center in Nebraska has a direct cooling water discharge permit.

Summary of Large Water User Policy

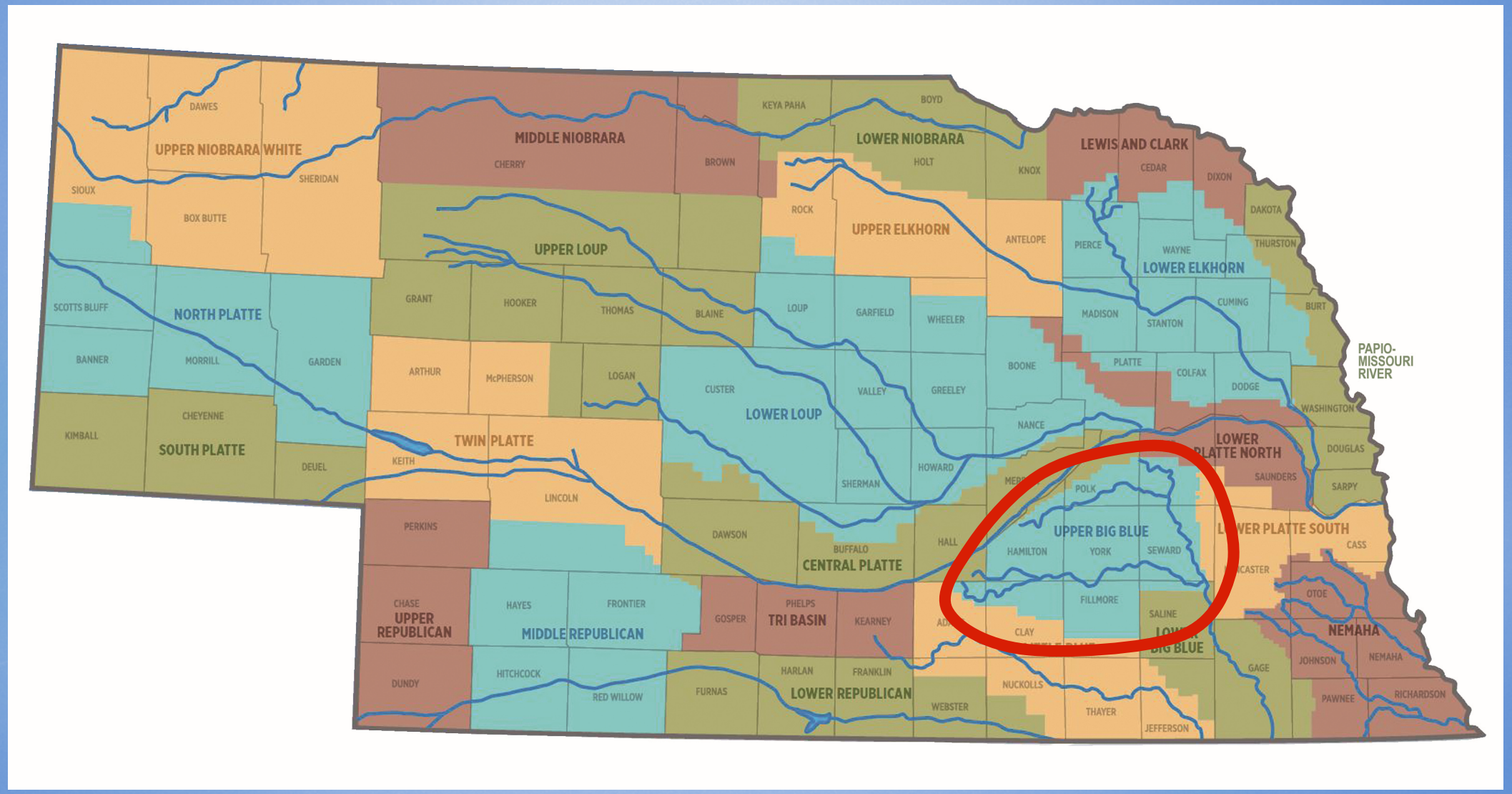
David A. Eigenberg, General Manager

Presented to the Governor's Data Center Task Force

September 22, 2026

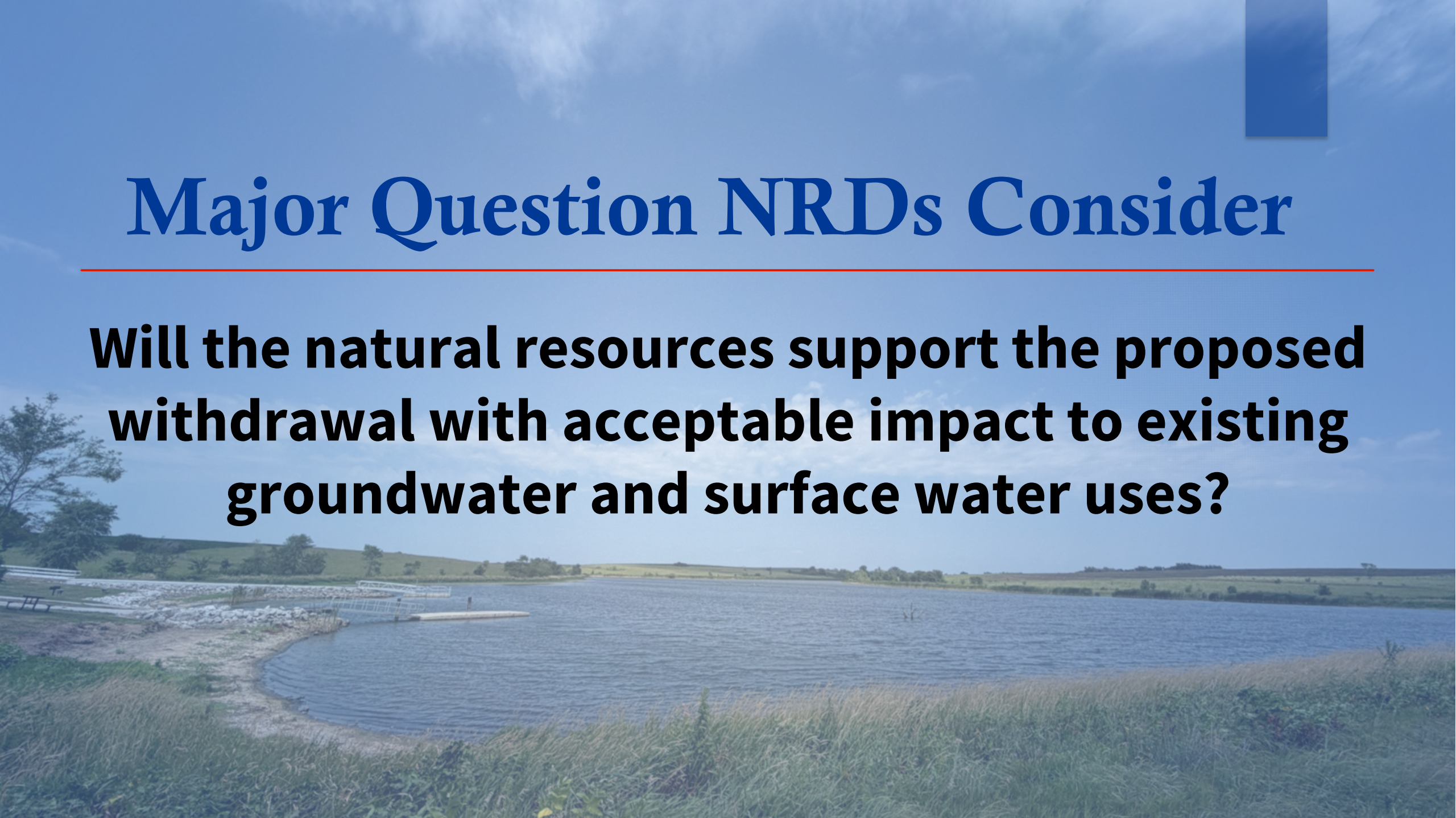
Grand Island, Nebraska

Natural Resources Districts



Major Question NRDs Consider

Will the natural resources support the proposed withdrawal with acceptable impact to existing groundwater and surface water uses?



Major Question NRDs Consider

- Impact of proposed groundwater withdrawal to existing users?
  - Domestic
  - Municipal
  - Agricultural
  - Industrial





Upper Big Blue NRD Regulations – Large Water User Rule

- Developed in response to the ethanol industry
- 1999 – Adopted large water user rule
- 2006 – First application for well construction permit by a large water user

Applications and Studies

- 8 total since 2006
  - Fairmont Ethanol
  - Sutton Ethanol
  - Aurora Ethanol
  - Tamora Ethanol
  - Bradshaw Ethanol
  - Stromsburg Ethanol
  - City of York municipal use
  - Synergen – Hamilton County



Large Water User Rule

- Permit required for:
  - Construction of well or wells that are intended to pump 500 acre-feet or more per year
  - Increase pumping from existing well or wells to 500 acre-feet or more per year
  - Increase pumping from existing well or wells currently withdrawing 500 acre-feet or more per year by an additional 250 acre-feet or more per year

Large Water User Rule



- 500 acre-feet rule applies to ALL WELLS:
  - which are combined for the intended use
  - wherever located
  - without regard to ownership or control of the wells to be used

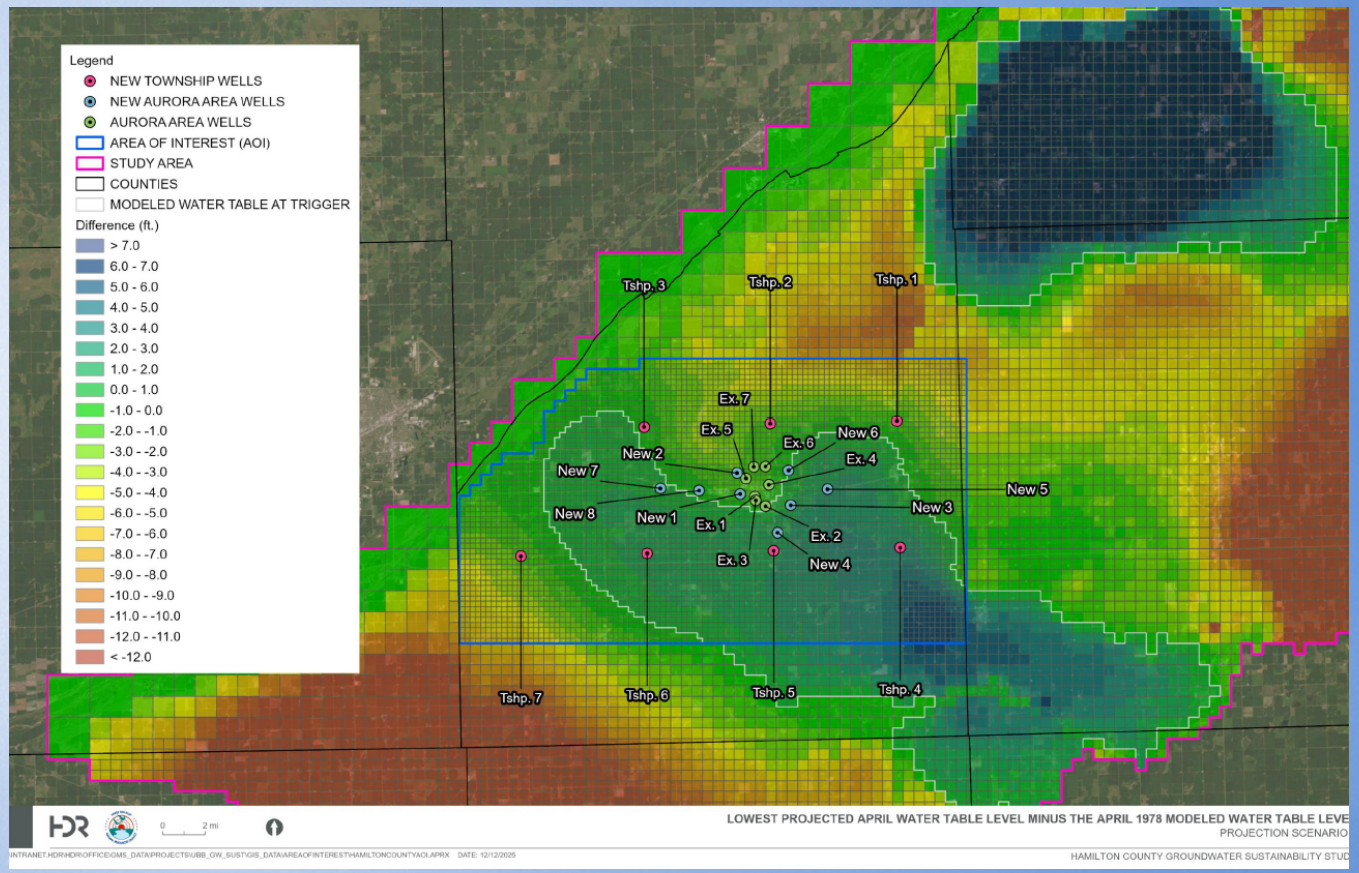
Hydrologic Evaluation



- Groundwater hydrologic study required prior to consideration for well construction permit

Hydrologic Evaluation - What is it?

- A groundwater modeling study of existing and proposed groundwater uses in the vicinity of a new large water use.



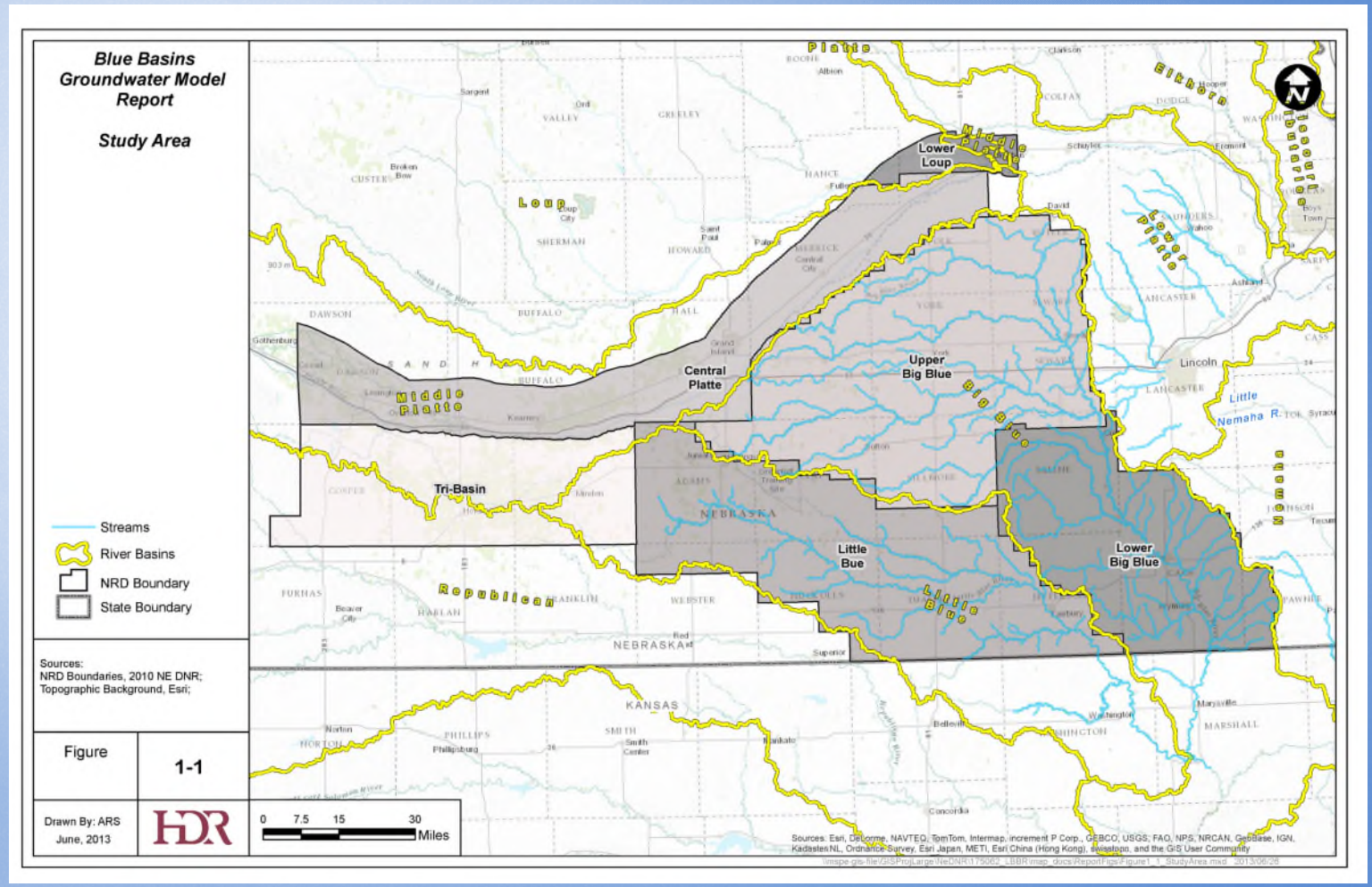
Hydrologic Evaluation - Why is it necessary?

- Uses a computer model to calculate impact to existing groundwater users
  - Domestic
  - Municipal
  - Agricultural
  - Industrial



Hydrologic Evaluation - Numerical Computer Model

- The Blue Basin Model developed in partnership with the Department and Blue Basin NRDs is the starting point for the hydrological modeling effort.



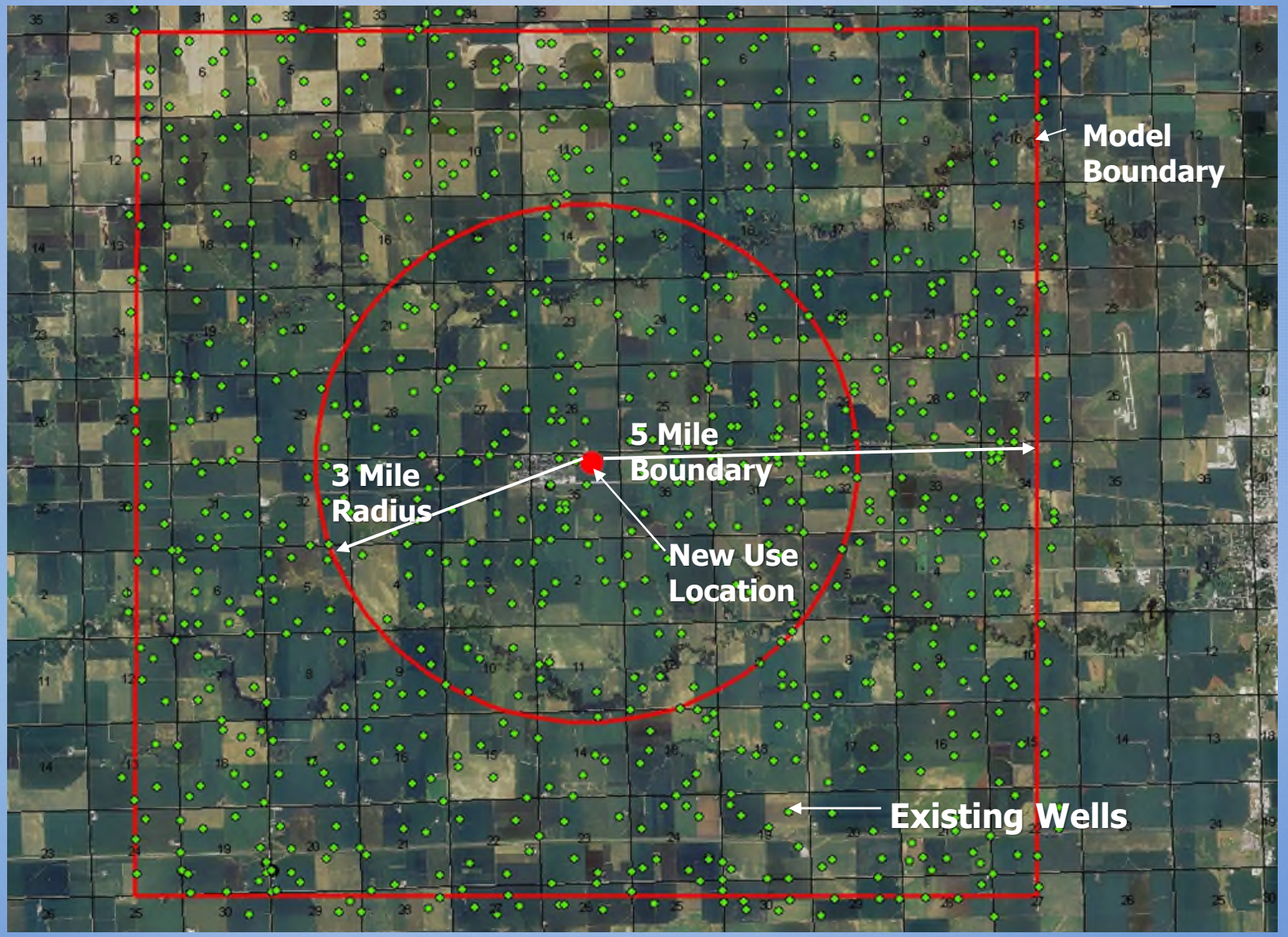
Hydrologic Evaluation - Numerical Computer Model

- Define the model time and space relationships
  - Geology, model grid, stress periods, and time steps
  - Model layers and grid spacing
- Develop the model well file
  - Existing and proposed wells
    - Pumping rate, pumping duration, and screen depth
- Evaluation of return flows
- Set model boundary conditions
- Calibrate the model

Hydrologic Evaluation - Model Simulations

- Calculate groundwater levels and changes in groundwater levels
  - At existing wells within 3 & 5 miles of the proposed new use
  - Document changes in groundwater levels resulting from the new use for a 25-year period
- Calculate the adequacy of groundwater supply with and without the proposed new use

Map of Modeled Area



Applicant & NRD Responsibilities

- Applicant responsible for the study
  - Partner with the NRD for the exchange of data required to conduct the study
  - Conduct study or hire consultants
  - Pay entire cost
- Peer review
  - First NRD review is at no charge to applicant
  - Subsequent reviews at applicant's cost
  - $5,000 deposit required

NRD Board Review - Criteria

- The NRD Board reviews a well permit based on the following criteria:
  - The use of accepted methods in conducting the hydrologic evaluation
  - Satisfactory compliance with District rules & regulations
  - Preference of use as follows:
    1. Domestic
    2. Municipal
    3. Agriculture
    4. Industrial



NRD Board Review - Criteria

- The NRD Board reviews a well permit based on the following criteria:
  - Probability of adversely impacting other groundwater or surface water users
  - Impacts on the State's ability to comply with an interstate compact or decree or to fulfill the provisions of any other formal state contract or agreement
  - Protection of the public's interest of welfare

NRD Board Decision

- Approve permit
  - No problems
- Approve with conditions
  - Require damage mitigation
- Request additional information
- Reject Permit
  - Cannot comply with district requirements

Thank you!
Questions?

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Roundtable Discussion: Water and Environmental Permitting





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Large Load Growth: Opportunity & Responsibility

September 22, 2026

Nicole Sedlacek, CEcD
Economic Development Manager

Nebraska Public Power District
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New Load Process (NLP) Overview

Why it was stood up – large uptick in new load requests starting in 2023

- For proper system and resource planning ≥1 MW is very valuable to understand and properly plan the system for all new loads and integrity of the system for existing and new customers
- Firm loads ≥ 5 MW individually and in aggregate, provide $12K / MW Generation Security Deposit to indicate that NPPD should make the commitments we are required regarding resource adequacy
- Allows all involved (new load, serving utility and NPPD) to follow a process in full transparency

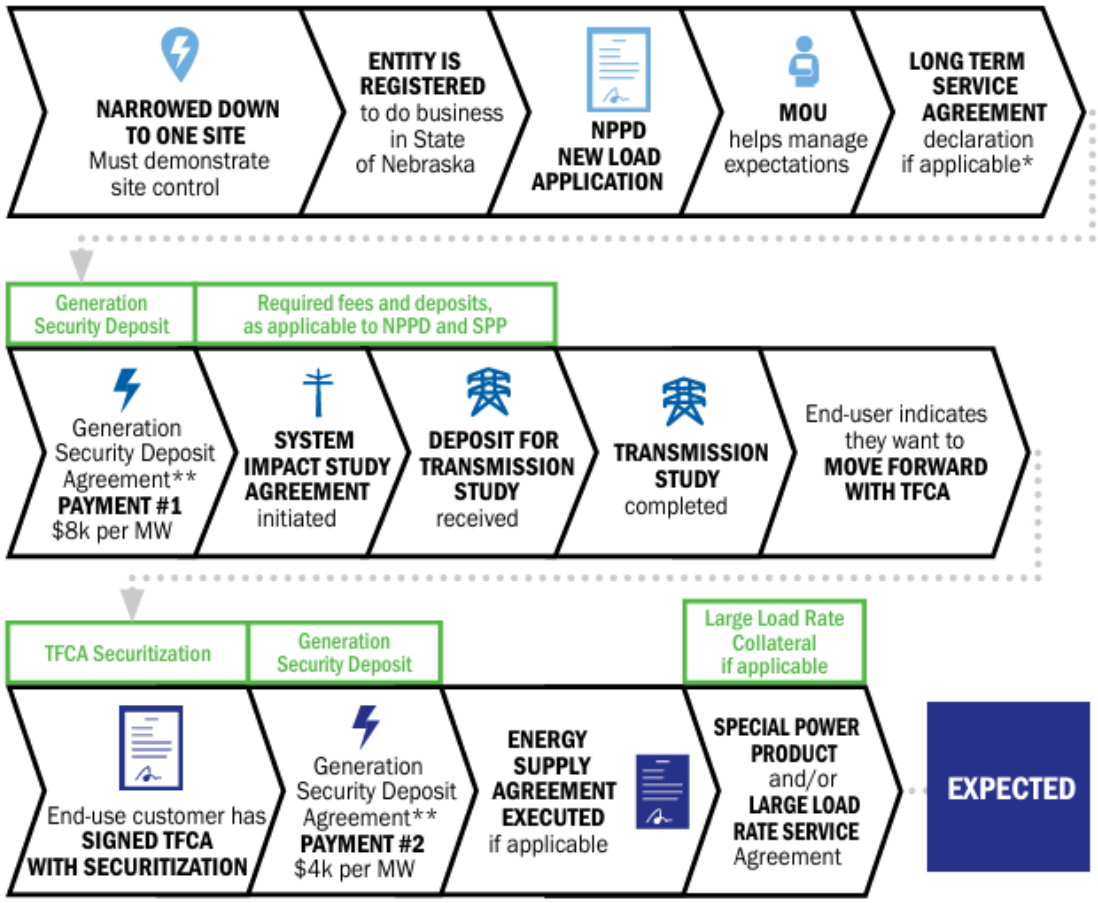
What is different today

- Size of projects have grown
- Adapting to legislative changes in Nebraska and tariff changes at Southwest Power Pool

Goal is still the same - Determine when sufficient transmission and energy capacity is in place to serve the new load

- Transmission – study to determine if adequate infrastructure is in place or timing for upgrades
- Generation – completing the NLP establishes position for available capacity resources

NEW LOAD PROCESS



*Long Term Service Agreement only applies to projects greater than 20 MW.
**Generation Security Deposit Agreement applies to projects that are greater than or equal to 5 MW, single site or aggregate.

LEGEND:

Green - Investment Points

TFCA - Transmission Facilities Construction Agreement

SPP - Southwest Power Pool

Economic Development Project Readiness Checklist

Before entering the New Load Process, project teams should have:

Site & Project Development

- ☐ Local zoning/use compatibility reviewed
- ☐ Preliminary development schedule established

Customer & Load Validation

- ☐ End-user identified
- ☐ Load requirements defined (MW demand, ramp schedule, operating profile)
- ☐ Load growth assumptions documented
- ☐ Retail service provider discussions initiated

Community & Economic Development

- ☐ Local economic development engagement ongoing
- ☐ Community support discussions initiated
- ☐ Local government awareness established
- ☐ Infrastructure needs identified

Financial Readiness

- ☐ Capitalization plan established
- ☐ Funding sources identified
- ☐ Study deposit requirements reviewed
- ☐ Generation Security Deposit requirements reviewed

Utility Readiness

- ☐ Desired service date identified
- ☐ Preliminary transmission considerations discussed
- ☐ Rate product discussions initiated

Rev. 09/17/26 PP

Nebraska's Large-Load Legislative Framework – LB 1010 - Large Load Customer Regulation Act

Large load customer means a retail load customer **requesting a new or expanded** interconnection where the **total load at a single site** would **exceed 20 megawatts**;

- Disclosure of substantially similar competing electric-service requests
- Disclosure of substantially similar competing electric-service requests
- Disclosure of certain onsite backup generation
- Initial study fee of $50,000 or $1,000/MW, whichever is greater
- Method for demonstrating site control
- Financial commitment requirements for needed transmission and generation infrastructure
- Authority for utilities to establish rates, charges and operating standards that allocate costs and mitigate operational, resource-adequacy and financial risks.

Nebraska's Large-Load Legislative Framework – LB 1261

- Allows large energy users to work with a private electric supplier to bring energy generation to the end-user
- New electric load **at a single site** must be greater than **1,000 MW**
- Private generation must be co-located on or adjacent to the industrial customer
- Legislation sunsets - Contracts with public power utilities must be entered into on or before by December 31, 2031

Risk Coverage Across the Lifecycle

New Load Process

Generation Security Deposit
Covers study and early-stage exposure

→

Transmission Facilities Construction Agreement
Covers infrastructure and buildout costs

→

Large Load Rate

Rate Collateral (Minimum Billing)
Covers ongoing revenue and payment risk

Result:

- Reasonable risk coverage across lifecycle
- No duplication of protections
- Each tool targets a specific exposure

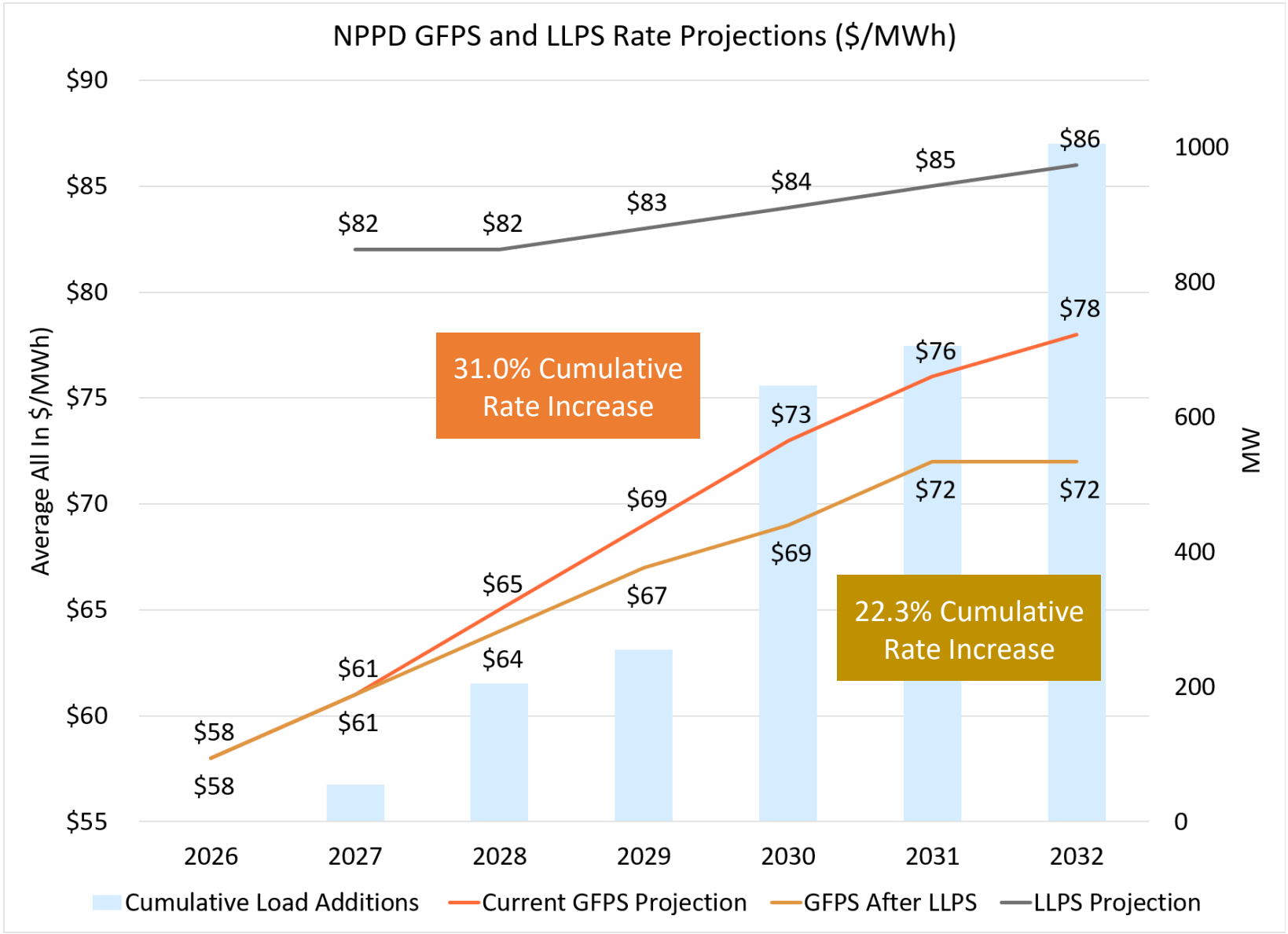
Large Load Rate

- Termination of service earlier than anticipated
- Actual capacity lower than expected
- Delayed load ramp
- Construction delays
- Fuel price volatility
- Cross-subsidization by existing customers
- Needed transmission/interconnection upgrades
- Additional risks specific to crypto:
  - Extreme load volatility and curtailment risk
  - Credit and counterparty risk
  - Ability to pack up and leave quickly
  - Manipulating load characteristics
  - Rate design and cost allocation challenges

Large Load Rate Features, continued

- Contract Features
  - 0–5-year ramp-up period before full service.
  - 15-year service term with automatic 5-year extensions.
  - Early termination fees for short-notice exits.
  - Mandatory payment of 80% of contract demand regardless of usage.
  - Collateral equal to 36 months of minimum bills + system ratchets.
- Billing & Operations
  - Billed on maximum anytime monthly peak.
  - Interruptible service optional (except emergencies).
  - Capacity reductions allowed after year 5 with proper notice.
- Customer Generation Options
  - Behind-the-meter or private generation handled through special rate structures and pass-throughs.
  - Customers supplying their own capacity transition to standard large load rate in year 9.
- Rate Components
  - **Transmission** costs shared with existing load; stranded upgrade costs apply.
  - **Market-Based Energy** from SPP passed through directly.
  - **Production Demand** covers incremental capital, fixed O&M, A&G, and taxable debt.

Forecasted GFPS Rate Impacts



- Impacts assume inclusion of loads expected to be served under the LLPS rate each year 2027-2032 combined with planned rate increases
- After including the large loads, projected GFPS rate adjustments are lower due to the incremental loads sharing transmission and A&G costs and the higher demand charge
- Costs spread over native load and large loads benefit existing customers by bringing their share of transmission and A&G costs down as new large loads come online
- LLPS rate remains $15-$20/MWh above the GFPS rate, and the GFPS rate shows a positive impact from the added large loads
- Forecasted impacts include many assumptions. Actual results will be dependent on customers starting service on the LLPS rate and other factors.





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Questions

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Roundtable Discussion: Energy Considerations

Data Centers & the County Land Use Framework

Comprehensive plans, LB663, tax impacts, and community benefit agreements — a local framework that complements state and federal review while protecting quality of life.

What We'll Cover in 20 Minutes

01 **Why This Matters**

county authority and quality of life

02 **Growth**

Population, economic growth, and real barriers

03 **The Case for Local Decision**

Why one size doesn't fit all across Nebraska

04 **The Foundation**

Comprehensive plans, zoning authority & LB663

05 **Local + State + Federal**

How the layers fit together

06 **Siting, Tax & Revenue**

What counties evaluate — and can capture

Toolkit, Repository & Phase 2

Building practical resources that protect local decision-making and help counties prepare a defensible public record.

Phase 1

Land Use Permit Toolkit

A county-focused resource covering comprehensive plans, zoning authority, LB663 review requirements, siting considerations, and local permitting practices.

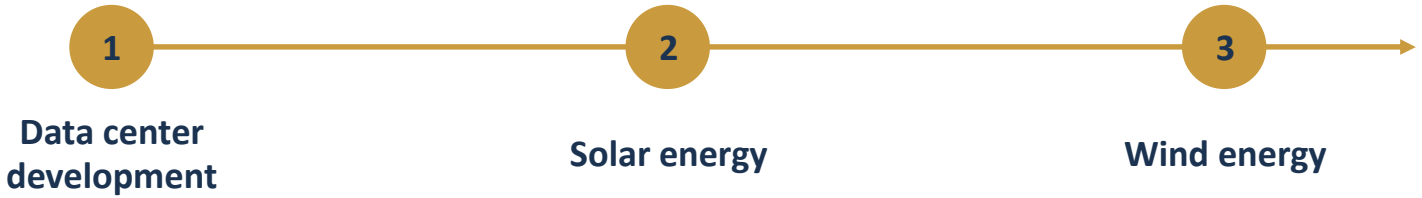
Toolkit link: nebraskacounties.org

Comprehensive Plan + Regulation Repository

NACO collected examples of county comprehensive plans, zoning regulations and CUP standards, and adopted conditions so counties can learn from peer approaches without losing local fit.

comp plans | regulations | CUP standards | hearing record | conditions

Phase 2: Local Decision Matrices / Checklists



Purpose: give planning commissions and county boards a practical way to evaluate key local considerations before acting on conditional use permits.

Why This Matters

Nebraska counties are being asked to evaluate large, capital-intensive projects — data centers, energy facilities, industries and more — impacting agricultural ground.

"Navigating county land use should be a collaborative process." Randy Obermeier, York County Commissioner

Bringing new industry to the county takes building real partnerships and earning the trust — the buy-in — of our neighbors.

Significant public interest

These proposals draw substantial community attention and involve competing property-rights concerns.

Legally defensible decisions

LB663 and existing case law require decisions grounded in adopted standards and evidence — not sentiment alone.

Local voice, alongside the state

Counties retain independent zoning authority even as state and federal reviews run in parallel.

Nebraska's Growth Story

Population and economic growth are real, and geographically concentrated

+17.6%

Population growth, 2002–2022 — roughly 1.7M to 2.0M residents

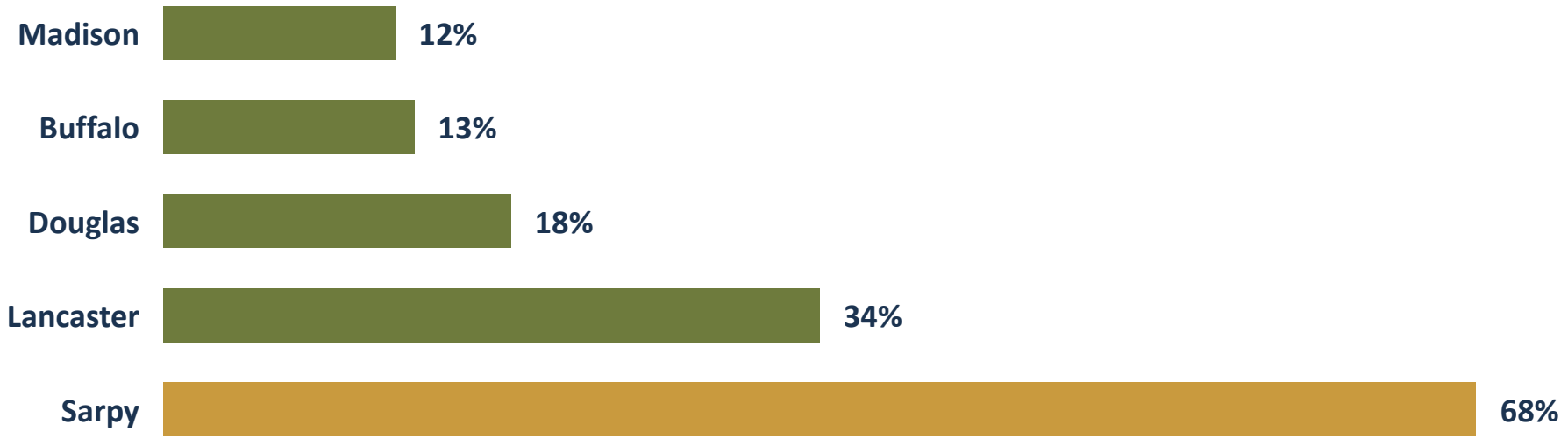
$152B

2022 state GDP — nearly double 2002's $77B

70%

of Nebraskans live along the I-80 corridor

Fastest-Growing Nebraska Counties (population growth, 2000–2022)



Nebraska sees an estimated 5,000–10,000 acres transition from agricultural to other uses each year — a gradual, ongoing pattern, not a sudden shift.

County Participation

Generally, each county wants a share of growth. Whether it can capture that opportunity often comes down to a handful of capacity constraints.

Housing

A shortage of workforce and housing limits how many new employees, contractors, or residents a county can actually absorb.

Childcare

Limited childcare capacity keeps working-age parents on the sidelines of the labor force, narrowing the workforce even when jobs are available.

Broadband Connectivity

Reliable broadband for industry, remote work, telehealth, and modern agriculture — and remains uneven across rural Nebraska despite state and federal investment.

Infrastructure

Potential electrical grid capacity, water supply, wastewater management, rail, public transit as well as roads and bridges engineered for agricultural loads, not industrial.

One Size Does Not Fit All

Nebraska's 93 counties don't share one land-use profile. A standard built for one county can misfire in another.

SARPY COUNTY

Omaha-metro edge • +68% population since 2000 — the fastest-growing county in the state

- Dense existing utility, water & sewer, and road networks
- Development pressure at the urban-rural interface
- Neighbors are often subdivisions and small acreages

Lincoln County

West-central Nebraska • large, predominantly rural and agricultural land base

- Working farms and ranches as the predominant neighboring use
- Proposed siting areas may have county roads and bridge networks built for agricultural, not industrial loads
- Existing water restrictions for residents

A single statewide standard for setbacks, road capacity, or infrastructure conditions would either overburden a county like Lincoln or under-protect a county like Sarpy. Locally adopted standards, grounded in each county's own comprehensive plan, are how both get it right.

Comprehensive Plans Are the Foundation

Neb. Rev. Stat. § 23-114.03: zoning may be adopted only after a county adopts a comprehensive development plan and receives the planning commission's recommendation. All zoning must stay consistent with that plan.

1 Long-Range Vision

A 10–20 year, data-driven policy guide for land use, transportation, utilities, housing, and public facilities.

2 Legal Grounding

Zoning must rest on a rational nexus — a real connection between the regulation and its public-welfare purpose.

3 Protects the Tax Base

Among the plan's statutory purposes: protecting the tax base and fostering the state's agriculture and other industries.

Zoning vs. Conditional Use Permits

Zoning sets the baseline framework for a district. **A conditional use permit (CUP)** allows a specific use — like a large-scale data center — within that district, subject to conditions that protect neighbors and the public interest.

83 of 93

Nebraska counties (89%) have adopted zoning and a comprehensive development plan

LB663 (2026): Permit Review Requirements

The “Shot Clock”

Counties must act on conditional use permit and special exception applications within statutory deadlines — or the application is automatically approved.

Evidence-Based Decisions

Decisions must rest on adopted zoning regulations and documented findings — not subjective preference or opposition alone.

Independent Processes

Counties cannot require applicants to secure separate state or federal permits before making a zoning decision.

Mandatory Education

County attorneys, planning commissioners, and county board members must complete two hours of zoning/permitting education per term.

The Value Proposition of Local Decision-Making

Boots on the Ground

County planning staff and boards know their roads, soil, water, and neighbors — the practical detail a statewide standard can't see.

Economic Development, Many Forms

Agriculture, energy, tourism, small business, industry and data infrastructure involve land use consideration with economic impact. Local officials with the input of residents weigh that full mix for their own community.

Community Engagement Is the Success Factor

Ongoing conversations with neighbors — participating and non-participating — are what harmonize new development into a community.

Learning From Peers

Nebraska counties are watching and learning about what's working — and what isn't — for participating and non-participating landowners in other states, and adapting local standards accordingly.

More than 500 bills to preempt county land-use authority were introduced across 40 states in 2025 National Association of County Officials (NACo).

Building Partnerships & Neighboring Buy-In

New industry succeeds locally when it's built on trust — with residents, with neighboring landowners, and with the agricultural identity many of our communities take pride in.

Engage Early

Encourage applicants to talk with all stakeholders including non-participating landowners before formal hearings, not after.

Protect What Residents Value

Weigh agricultural and land-use compatibility alongside the county's comprehensive plan.

Show Your Work

Ground every decision in adopted standards and a documented public record — the basis of a defensible outcome.

Case Study — Hamilton County

“Hamilton County has some of the most productive farmland in the country, so people get very concerned when you start removing or impeding on that agricultural ground.” — Commissioner Rich Nelson, on why data center water and power demands draw such close community attention.

Public Hearings Create the Record

A public hearing gives residents, landowners, applicants, and county officials a shared place to put facts on the record before decisions shape the community where people live and work.

Notice	Presentation	**Public Input**	Questions	Findings	Decision
Make the issue visible	Explain the proposal	Hear local knowledge	Test the record	Apply standards	Show the work

Excerpt from Alexis de Tocqueville

,the strength of free peoples resides in the local community. Local institutions are to liberty what primary schools are to science; they put it within the people's reach; they teach people to appreciate its peaceful enjoyment and accustom them to make use of it. Without local institutions a nation may give itself a free government, but it has not got the spirit of liberty. Passing passions, momentary interest; or chance circumstances may give it the external shape of independence, but the despotic tendencies which have been driven into the interior of the body social will sooner or later break out on the surface.

Not All Data Centers Are Alike

Clear project definitions let counties apply standards that are proportional to actual impact — from a hospital server room to a hyperscale campus.



Small Enterprise	Regional	Large	Hyperscale
0–10 ac	10–50 ac	50–150 ac	100–1,000+ ac
1–10 MW	10–50 MW	50–100 MW	100 MW–1 GW+
Single company, hospital, school	Colocation / cloud infrastructure	Cloud provider, major corporation	Microsoft, Google, Amazon, Meta

Small Scale vs. Large Scale: Different Review

Size drives the standard. A hospital server room and a hyperscale campus are both “data centers” — but they warrant very different permitting pathways and conditions.

SMALL ENTERPRISE

0–10 acres • 1–10 MW • single company, hospital, school

- Typically permitted by right or with minimal review
- Building permits & electrical service
- Standard cooling-system review
- Emergency access planning
- Low road, water, and workforce impact

LARGE / HYPERSCALE

50–1,000+ acres • 50 MW–1 GW+ • cloud & hyperscale operators

- Conditional use permit or special exception review
- Agricultural & industrial land-use impacts
- Extensive road, water, and infrastructure upgrades
- Long-term fiscal planning & decommissioning assurance
- Community benefit agreements & sustained public engagement

Local Review Complements State & Federal Permitting

Counties coordinate with utilities and agencies, but must make zoning decisions independently. Decisions cannot be delayed or conditioned on the outcome of other processes.

LOCAL	CUPs, special exceptions, site plans, road-use & benefit agreements, comp-plan consistency
STATE	LB1010 large-load review, LB1261 generation siting, air quality permits (e.g., backup generators), environmental & highway permits
FEDERAL	Air/water/hazmat compliance, wetlands & waters, obstruction evaluation near airports

Key Siting Considerations for Data Centers

Project Classification

Define size/impact tiers and which projects are permitted by right vs. conditional review.

Infrastructure Readiness

Electrical service, substations, fiber, water, wastewater, and emergency services capacity.

Site Suitability

Compatibility with agriculture, comp-plan alignment, and proximity to residences.

Setbacks & Screening

Buffers, landscaping, lighting, and noise studies for larger facilities.

Roads & Construction

Haul routes, bridge review, road-use agreements, and repair obligations.

Water & Cooling

Open- vs. closed-loop systems drive very different long-term water demand.

Drainage & Stormwater

Grading and access roads can affect drainage; coordinate with the NRD on larger projects.

Emergency Response

Coordination with fire, EMS, and law enforcement on backup power and hazmat.

Decommissioning

Financial assurance — bonds or letters of credit — reviewed periodically.

Non-Participating Landowners

Clear engagement processes for neighbors not part of the project.

Economic & Tax Implications

What Data Centers Can Bring

- Significant tax revenue and construction spending
- Temporary construction-phase workforce demand
- Ongoing economic activity, with permanent jobs
- Investment that can support the broader property tax base

What Counties Should Evaluate

- Pre- and post-project fiscal and service impacts
- Housing and lodging capacity for workforce influx
- Traffic, road wear, and public-service demands
- Emergency response coordination
- Decommissioning implications

Community Benefit Agreements (CBAs)

An agreement identifying specific benefits a developer will provide to a community — infrastructure improvements, workforce development, public services, or other measures addressing project impacts.

Road & bridge improvements	**Infrastructure upgrades**	**Workforce housing support**	**Emergency responder training**

Guardrails to keep in mind

- Voluntary offered by the applicant
- Proportional to actual project impacts
- Legally authorized and consistent with applicable law
- Documented as part of the development or road-use agreement

Fund-Allocation Limit

One More Layer — Fund Allocation

Even where contracting authority is clear, the State Auditor's office has separately interpreted how counties may allocate funds received under an agreement like this — a real constraint on what a CBA can actually be used to pay for.

The Practical Line

- Counties CAN accept a CBA the applicant voluntarily offers, and can document it in a development or road-use agreement.
- Counties CAN impose permit conditions and infrastructure obligations that are directly tied to, and proportional to, documented project impacts.
- Counties CANNOT make approval contingent on a developer agreeing to unrelated or disproportionate payments.

Legislative & Revenue Opportunities for Counties

Property Tax Base

Data center improvements and equipment add to the county's real and personal property tax base — one of zoning's fourteen statutory purposes.

Nameplate Capacity Tax

LB1010 applies a nameplate-capacity-based tax framework to stand-alone energy storage; the task force can examine whether comparable frameworks apply to data centers.

Sales & Lodging Tax Spillover

Construction-phase workers drive spending at local shops, restaurants, and hotels — a secondary but real revenue stream.

Developer-Funded Infrastructure

Road-use agreements shift haul-route wear and repair costs to the applicant rather than the county's road budget.

Voluntary Community Contributions

CBA commitments support services outside the tax roll.

Community Benefit Agreements and Funding Allocation

Review a county’s ability to fully negotiate a community benefit agreement. (Dillon Rule)

Neb. Rev. Stat. § 23-104(6)

Thank you!

NACO Land Use Toolkit is available on Nebraskacounties.org/education

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Roundtable Discussion: Planning and Zoning Considerations

Questions/Final Discussion

Scheduling and Next Steps

- Next Task Force Meeting:
  - October 20, 2026
  - Location: Columbus (exact location TBD)

- Other upcoming opportunities:
  - Power Summit, October 1, 2026